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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,528	03/19/2004	Hung-ying Tyan	073338.0152 (03-52021 FLA	7524
5073	7590	03/21/2008	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			TRAN, PHUC H	
			ART UNIT	PAPER NUMBER
			2616	
			NOTIFICATION DATE	DELIVERY MODE
			03/21/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com  
glenda.orrantia@bakerbotts.com

### Office Action Summary

**Application No.**

10/804,528

**Applicant(s)**

TYAN ET AL.

**Examiner**

PHUC H. TRAN

**Art Unit**

2616

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8, 17-24, 33 and 34 is/are allowed.
- 6) ☒ Claim(s) 9-16 and 25-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9-16 and 25-32 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 9-16 and 25-32 is drawn to functional descriptive material "Logic for token-controlled", "logic encoded in media" and "optical transmission media" NOT claimed as residing on a computer readable medium.

MPEP 2106.IV.B.1(a) (Functional Descriptive Material) states:

"Data structures not claimed as embodied in a computer-readable medium are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer."

"Such claimed data structures do not define any structural or functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized."

Claims 9-16 and 25-32, while defining a "Logic and media" (whatever is claimed; e.g., a computer program, an algorithm, a medium, a program providing medium, a memory, etc.), does not define in a "computer-readable medium" and is thus non-statutory for that reasons.

"In contrast, a claimed computer-readable medium encoded with the data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory." - MPEP 2106.IV.B.1(a)

***Response to Arguments***

2. Applicant's arguments filed 1/11/08 have been fully considered but they are not persuasive.

***Allowable Subject Matter***

3. Claims 1-8, 17-24 and 33-34 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H. TRAN whose telephone number is (571)272-3172. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHI PHAM can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PHUC H TRAN/  
Examiner, Art Unit 2616